

Indiana Gaming Commission
March 8, 2007

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INDIANA GAMING COMMISSION
BUSINESS MEETING
MARCH 8, 2007

The above-captioned business meeting was stenographically taken down by me, Robin L. Helton, a notary public in and for the County of Marion, State of Indiana, at 1:00 p.m., on March 8, 2007, at the Indiana Government Center South, Conference Room B, 402 West Washington Street, Indianapolis, Indiana, and the following transcript is a true and accurate transcript of the proceedings held.

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A P P E A R A N C E S

COMMISSION MEMBERS PRESENT:

- Timothy Murphy, Commissioner
- Donald Raymond Vowels, Commissioner
- Thomas Swihart, Commissioner
- James Cummings, Jr., Commissioner
- Earnest Yelton, Executive Director
- Jennifer Arnold, Deputy Director
- Phil Sicuso, General Counsel
- Kevin Mahan, Superintendent of Gaming Agents
- Mark Mitchell, Director of Charity Gaming
- Tami Timberman, Secretary

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1 COMMISSIONER MURPHY: Good afternoon everyone
2 and welcome. We are working without microphones
3 today so if you cannot hear us in the back, just
4 let us know.

5 I would like to call to order the March 8, 2007
6 Indiana Gaming Commission. My name is Tim Murphy
7 and I'm vice chair. I will be standing in today
8 for Chairman Barrett, who is unable to be with us
9 today.

10 First, I would like to turn the meeting over to
11 Executive Director Yelton for some introduction

12 EXECUTIVE DIRECTOR YELTON: Thank you,
13 Mr. Chair.

14 It's my pleasure to introduce to you this
15 afternoon our newest commissioner who was appointed
16 by Governor Daniels. James Cummings is a native of
17 Indianapolis, where he attended public school and
18 graduated from Crispus Attucks High School. He
19 earned his Bachelor of Science Degree in Physics
20 Administration from Indiana Central College, which
21 is now the University of Indianapolis. He pursued
22 advanced studies in public relations at Syracuse
23 University, continuing education in the State of
24 New York. He engages in residential and commercial
25 real estate sales through his company, Cummings

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1 Real Estate, Inc.

2 Mr. Cummings formerly was the Executive
3 Director of the Community Action of Greater
4 Indianapolis which services Marion, Hendricks,
5 Hamilton and Boone Counties. President Ronald
6 Reagan called on his service in 1980, appointing
7 him the Regional Administrator of HUD based in
8 Chicago where he oversaw all federally funded
9 housing programs in the states of Indiana,
10 Illinois, Ohio, Wisconsin, Michigan and Minnesota.
11 He was called to Washington D.C. and Mr. Cummings
12 served as the Deputy Assistant Secretary For
13 Operations and Management at HUD.

14 Jim currently is a member of the Greater
15 Indianapolis Progress Committee and the
16 Indianapolis Metropolitan Self-Development
17 Commission. Mr. Cummings is the founder of Indiana
18 Black Expo and served as its chairman and president
19 from 1971 to 1973.

20 We welcome Jim aboard as member of our
21 Commission, The Indiana Gaming Commission.

22 COMMISSIONER MURPHY: Thank you, Director
23 Executive Yelton.

24 The next item would be to call the roll. I'm
25 Tim Murphy; Don Vowels, Secretary; Tom Swihart;

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1 Jim Walsh; Jim Cummings.

2 There being a quorum present, we will proceed
3 to the approval of the minutes from the last
4 meeting.

5 COMMISSIONER: Move to approve.

6 COMMISSIONER: Second.

7 COMMISSIONER MURPHY: Been moved and approved
8 that we move and second to approve the minutes of
9 the last meeting.

10 The next item of business is the report from
11 Executive Director Ernest Yelton.

12 EXECUTIVE DIRECTOR YELTON: Thank you,
13 Mr. Chair.

14 I want to start with a staff update. Since we
15 last met, we've had several changes on our
16 Commission staff, and I will call on the department
17 heads to introduce them to you.

18 First of all, the Legal Division; Phil Sicuso.

19 GENERAL COUNSEL SICUSO: From our last meeting,
20 I'm sure many of you remember we had a resignation
21 of our former licensing director, Michelle Marsden.
22 Since her departure, we've promoted our former
23 legal secretary, Kesha Rich, to that position. We
24 are delighted to have her. She has been doing a
25 great job. If any of you have any occupational

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1 licensing questions, please contact her.

2 To replace Kesha's position, however, we have
3 moved Matt Shouse, who I believe is here. Matt
4 used to be our receptionist at the front desk and
5 has since started school and has been working with
6 us part-time with document retention issues. So he
7 will be joining the legal staff as our
8 administrative assistant in about two weeks

9 EXECUTIVE DIRECTOR YELTON: From the Division
10 of Gaming Agents, we call upon Superintendent
11 Kevin Mahan

12 MR. MAHAN: It took well over a year but we had
13 our first turnover in the investigation section,
14 and we had the privilege of hiring Jill Clouse.
15 Jill, if you could stand and be recognized.

16 Jill has lived in Indiana for fifteen years.
17 She is married with two daughters. She a graduate
18 of Indiana University with a Bachelor of Arts in
19 Philosophy and a Doctorate of Jurisprudence. Jill
20 just recently completed her certified
21 investigations training course with the IGC,
22 Indiana Law Enforcement Academy, and she is
23 currently fulfilling her role and doing a great job
24 as a background investigator in the investigation
25 section.

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1 EXECUTIVE DIRECTOR YELTON: From the Division
2 of Charity Gaming, Director Mark Mitchell.

3 DIRECTOR OF CHARITY GAMING MITCHELL: We
4 recently replaced a temporary receptionist
5 position, upgraded it to a full-time position. And
6 Ms. Victoria Hayworth joined us in the Charity
7 Gaming Division as our receptionist, filling the
8 reception III position as a full-time employee.

9 Within the last two months, we upgraded a
10 position from analyst to administrative assistant
11 III. The person filling the analyst position is
12 Ms. Kim Barnett. Ms. Barnett came over with the
13 Charity Gaming Division from the Department of
14 Revenue and was upgraded to a position of
15 administrative assistant III. She currently
16 assists with the investigative and legal divisions.

17 EXECUTIVE DIRECTOR YELTON: Thank you.

18 Also for your information, we are in the
19 process of hiring a new staff attorney,
20 receptionist, a legal secretary -- well, we just
21 did that yesterday, excuse me, and a new clerical
22 position with the Charity Gaming Commission.

23 Next, I want to announce that Michael Danielli,
24 who is an auditor with the State Board of Accounts,
25 met with your executive staff and was tendered to

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1 me on February 12th, last month. That afternoon he
2 began his biannual compliance review, which is an
3 abbreviated audit of the agency. Tuesday, he had a
4 gaming research and should finish his review by
5 tomorrow or Monday at the latest. We expect to
6 have a report of his findings within a month; and
7 so far we do not anticipate any exceptions of any
8 significant substance

9 As to litigation, in the interlocutory appeal
10 involving the City of East Chicago, Second Century,
11 two foundations, and the attorney general. Our
12 counsel filed a brief contesting the order of the
13 consolidation as a declaratory judgement action
14 with the judicial review of an administrative
15 action, which were both brought by Second Century.
16 It's been fully briefed and a decision is awaiting.

17 On the trial court level, Judge Bradford
18 conducted a hearing on the East Chicago's motion to
19 lift a stay of discovery pending interlocutory
20 appeal. Judge Bradford denied the City's motion to
21 do so

22 The 2007 General Assembly has concluded first
23 chamber action on legislative proposals, several of
24 which I want to bring to your attention here this
25 afternoon.

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1 House Bill 1254 was an initiative by the
2 Department of Natural Resources, the Alcohol and
3 Tobacco Commission, and the Gaming Commission, for
4 seven new provisions to our present pension plan
5 for our gaming agents. It was authored by
6 Representatives Kuzman and Whetstone. It was heard
7 by the Public Policy Committee, where it received
8 an amended to pass vote of 9 to 1. It was
9 reassigned to the Ways and Means Committee too late
10 in the session for it to be heard. Representative
11 Kuzman is reviewing Senate bills for its insertion
12 and we have gained permission from Representative
13 Grub to speak with Senator Steele for its inclusion
14 in House Bill 1226.

15 Senate Bill 246 was authored by Senators Mrvan,
16 Kenley, Meeks and Lanske. It provides statutory
17 clarification of the local development agreements
18 between the casino licensee and the local entities.
19 It requires annual reporting of receipts and
20 distribution of gaming proceeds and recognizes the
21 Commissions continuing jurisdiction over their
22 operations. It passed the Senate with a vote of
23 47 to zero, and has been sent to Representative
24 Van Haafton as sponsor.

25 House Bill 1837 was presented by Representative

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1 Pelath. Its original form was primarily applicable
2 to any construction of a new gaming vessel under
3 the alternate marine structural and life safety
4 standards. It received a hearing before the Public
5 Policy Committee but was deferred for a vote until
6 the next day. By then, however, Representative
7 Pelath was convinced by the Indiana Gaming Industry
8 with the exception of Boyd Gaming, locally elected
9 municipal leaders, several unions and legislators
10 from other jurisdictions, with boats, that the
11 proposal would face tremendous opposition.

12 Accordingly, he basically gutted the bill and
13 left two provisions: Number 1, a requirement that
14 any new vessel be constructed in the State of
15 Indiana unless the Commission finds that it's
16 either economically or technologically infeasible
17 to do so.

18 Second: The Commission, rather than the
19 legislature, would be empowered to approve new
20 casino games. It passed the house 90 to 9 and has
21 been sent to Senator Merritt for further
22 consideration.

23 House Bill 1510 is the Charity Gaming omnibus
24 bill. Its author is Representative VanHaafton and
25 covers a myriad of issues. Most of the legislation

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1 is a statutory cleansing that treats qualified
2 organizations and qualified events equally. The
3 balance is an attempt to statutorily authorize
4 previous existing practices by the Department of
5 Revenue.

6 For example, we have received the most protest
7 about the legal prohibition against full-time paid
8 employees from participating in any fashion in a
9 qualified event. This initiative sanctions their
10 actions.

11 We have replaced the regulatory creation of
12 calendar raffles with an annual raffle license that
13 would allow 50/50's and weekly drawings, which are
14 presently occurring with significant frequency
15 throughout the state. We have attempted to
16 established a PPT license annually, which are punch
17 board, tip board, and pull tabs, which would allow
18 their daily use which is a custom among many
19 fraternal and veteran organizations.

20 We have learned that many of the
21 not-for-profits are conducting frequent Texas
22 Hold'em Tournaments without a charity game night
23 license. And in most cases, they will find a
24 for-profit sponsoring the same tournaments just
25 down the street from where they are. We are

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1 therefore asking the legislature to determine
2 whether or not card game charity game nights should
3 be treated the same as other events. That means
4 the availability to do it three times a week with
5 no more than two consecutive days.

6 We are also requesting approvals for all
7 Indiana institutions of higher education, such as
8 Ivy Tech, to qualify as an educational
9 organization.

10 Finally, we are permitting expanded rentals for
11 events but will limit a \$200 per day deduction to
12 determine the net proceeds. This bill passed the
13 house in a vote of 75 to 24, and has gone to Senate
14 with Senators Riegsecker and Simpson as sponsors.
15 We are optimistic of the possibility of this
16 bill -- taking it through both chambers.

17 House Bill 1835 authorized up to 2,500 EGD's at
18 each of the existing horseracing tracks. Should
19 this be successful, the Commission would be asked
20 to serve as a regulatory oversight guardian for the
21 State of Indiana. While we do not take any policy
22 decision on its passage, we are continuing to
23 assist in ensuring that the same powers that we
24 exercise on the casinos would be granted for us to
25 exercise at the tracks.

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1 Finally, Senate Bill 577 granted the Executive
2 Branch the power to franchise the lottery to a
3 vendor for 30 years under stringent restrictions.
4 Once again, should this proposal be accepted, the
5 Gaming Commission would have a licensing and
6 regulatory oversight of the operations.

7 However, last Tuesday Speaker Bauer admitted
8 the bill through the Rules Committee of the house
9 which leads us to believe that there is no further
10 action on that particular initiative until a
11 conference committee time, if at all.

12 We would like to report that on January 23rd,
13 we published a 10th draft of our proposed marine
14 structural and life safety standards for the
15 industry and public comment upon request of the
16 Casino Association, the State of Indiana, and
17 corporate officers avoid gaming. We extended the
18 deadline for written responses to March 15th. We
19 are in the process of arranging a meeting with ADS
20 Consulting, Inc., United States Coast Guard,
21 Department of Homeland Security to review the
22 proposed standards. We anticipate to have a final
23 draft for a policy declaration by you at our June
24 meeting.

25 However, just last week we heard a rumor that

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1 the Coast Guard may well announce its decision to
2 abandon all inspections of continuously more
3 vessels in the upcoming federal register. If so,
4 potentially all ten boats, excluding French Lick,
5 would come under the jurisdiction of the alternate
6 standards.

7 We only have two waivers to report since our
8 last meeting. The members of the Casino
9 Association requested and were granted relief from
10 the soft count team members verbalizing the live
11 gaming device and identification number on the bill
12 validator box during the count. And Argosy was
13 granted a waiver to allow semiannual rotation and
14 count of the reserve and secondary chips.

15 I asked Grand Victoria's local counsel for an
16 update on its client's efforts to market the
17 license at Rising Sun. He responded that Grand
18 Victoria is still actively pursuing the sale process
19 and is continuing to engage with interested
20 parties. It has not selected a bidder to negotiate
21 with exclusively.

22 Based upon the results of the negotiations with
23 interested parties, Hyatt Gaming will decide
24 whether to sell, hold, expand, or refinance.

25 I would like to emphasize that the Commission

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1 has yet to receive any inquiry from any entity
2 seeking any information as to the possibility or
3 the process of transferring the license to another
4 venue.

5 And that, Mr. Chair, concludes the Executive
6 Director's report

7 COMMISSIONER MURPHY: Thank you, Executive
8 Director Yelton.

9 Is there a motion to approve Executive Director
10 Yelton's report?

11 COMMISSIONER VOWELS: I will so move.

12 COMMISSIONER SWIHART: Second.

13 COMMISSIONER MURPHY: It's been moved and
14 seconded that we accept the Executive Director's
15 report.

16 Executive Director, is there any old business?

17 EXECUTIVE DIRECTOR YELTON: No, there is not.

18 COMMISSIONER MURPHY: There being no old
19 business, we will move on to the report from the
20 Superintendent of the Gaming Agents, Kevin Mahan.

21 SUPERINTENDENT MAHAN: Thank you, Mr. Chairman.

22 We have reached a milestone just last Wednesday
23 in which the fifth and final transitional class
24 graduated from the Indiana Law Enforcement Academy.
25 As of midnight of March 18th, all 10 casino

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1 properties have been transitioned from the Indiana
2 State Police to the Division of Gaming Agents
3 Enforcement section, which at this point in time
4 will be in place, which means we have a
5 representation of 122 gaming agents on 10
6 properties who are fulfilling the duties and
7 obligations of acting as the eyes and ears for the
8 State of Indiana to ensure that gaming is being
9 conducted with the utmost integrity.

10 I want to, once again, and lastly, thank the
11 Indiana State Police for their cooperation
12 throughout this transaction. And as importantly, I
13 want to thank all the management at all of the
14 properties for all of their cooperation and the
15 hard work that they and their staff have put for
16 forth in welcoming these new gaming agents. I do
17 look forward to a very long professional working
18 relationship with all of the casino employees.

19 We have now reached this milestone of putting
20 Senate Act 626 in place. Our next mission is to
21 build a bond of what we have already done and make
22 it even better. I'm very proud of the 140 gaming
23 agents and the support staff that we have on board
24 with us and I'm very confident that you, as the
25 Commission, will be equally proud of them as well.

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1 The investigation section recently
2 reinvestigated three companies; Progressive Gaming
3 International, Midwest Gaming Supply Company, and
4 International Electronic Protection. All three of
5 these suppliers met the demands of their recent
6 reinvestigation and are in good standing with the
7 Indiana Gaming Commission.

8 To date -- year to date, there has been 61 PD 1
9 investigations that have been completed, and we are
10 currently underway and getting ready to start our
11 second international investigation.

12 Lastly, there are -- as far as three-year
13 investigations, we do have two properties this
14 year -- by year end that will be completing their
15 reinvestigation, their three years.

16 Mr. Chairman, that's the report from the
17 superintendent. And again, I thank you

18 COMMISSIONER MURPHY: Thank you, Kevin.

19 Our next report will come from Mark Mitchell,
20 the report from the Director of Charity Gaming

21 DIRECTOR OF CHARITY GAMING MITCHELL: Thank
22 you, Commissioner.

23 I would like to report that since July 1, 2006
24 when Charity Gaming was transitioned, the
25 Department of Revenue, the Indiana Gaming

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1 Commission, the Charity Gaming staff has processed
2 a total of 1,536 license applications, collecting
3 over \$1,426,000 in licensing fees.

4 Also, in response to public requests and
5 improved customer service, we have recently
6 provided a list of manufacturers and distributors
7 licensed by the Commission, and a list of the
8 organizations qualified by the Commission to
9 conduct the Charity Gaming events in Indiana to the
10 Charity Gaming section of the Commission's website.
11 These lists will be updated on a monthly basis.

12 Lastly, we held our fourth and last public
13 hearing on the recent proposed Charity Gaming rule,
14 and this was held in Indianapolis in the Indiana
15 Gaming Commission conference room. We collected
16 oral and written comments from the public that
17 attended. And Staff Attorney Ms. Lea Ellingwood is
18 scheduled to present the Charity Gaming resolution
19 to you later in this business meeting.

20 This would conclude the Charity Gaming
21 Division report.

22 COMMISSIONER MURPHY: Thank you, Mark.

23 The next item of business will be the Voluntary
24 Exclusion Issues. Those will be prevented by Angie
25 Bunton.

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1 MS. BUNTON: You have before you six orders
2 regarding Voluntary Exclusion Program. Pursuant to
3 the rules of the program, identities of Voluntary
4 Exclusion Program participants must remain
5 confidential, pursuant to 68 IAC 6-3-2(g), a
6 participant in the program agrees that if he or she
7 violates the terms of the program and enters the
8 gaming area of a facility, under the jurisdiction
9 of the Commission they will forfeit any jackpot or
10 thing of value won as a result of a wager.

11 Under order 2007-1, a total sum of \$8,324.63
12 was forfeited by John Doe number 1 through 6.
13 These winnings were collected at Argosy, Caesar's,
14 French Lick and Majestic Star. These winnings were
15 withheld as required by the Commission regulations.
16 Commission staff recommends that you approve the
17 remittance of these winnings as fines levied
18 against John Doe's 1 through 6.

19 COMMISSIONER MURPHY: Is there a motion?

20 COMMISSIONER VOWELS: I will move to approve
21 Orders 2007 - 1 through 2007-6.

22 COMMISSIONER SWIHART: Second

23 COMMISSIONER MURPHY: It's been moved and
24 seconded that we approve the resolutions.

25 All in favor, signify by saying I.

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1 BOARD: I.

2 COMMISSIONER MURPHY: Opposed?

3 Thank you, Angie.

4 Next item of business will be an occupational
5 license matter presented by Adam Packer

6 MR. PACKER: Thank you, Mr. Vice Chair.

7 The first occupational licensing matter before
8 you is in the matter of a denial of occupational
9 license for Brenda Wilson. Some of you may recall
10 Ms. Wilson. She had applied for a casino host
11 position at Caesar's Indiana and was denied for the
12 reason of a felony conviction for forgery that
13 occurred back in 1970.

14 In the meantime, Ms. Wilson appealed your
15 denial of her occupational license and during the
16 process of the administrative appeal, she was able
17 to get her sentence reduced or -- her sentence
18 reduced or the conviction was completely expunged,
19 therefore, making her appeal sail through the
20 administrative process a little bit quicker than we
21 first anticipated. The Administrative Law Judge
22 issued a recommendation that you reverse your
23 original denial of her occupational license and
24 allow her to get a temporary license. I believe
25 Ms. Wilson is here today, if she has anything to

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1 add.

2 COMMISSIONER VOWELS: From what I remember, by
3 statute we didn't have the option to accomplish
4 anything because of this offense. And it was
5 suggested to you to do what you were able to
6 accomplish.

7 MS. WILSON: Yes.

8 COMMISSIONER VOWELS: I will now make a motion
9 to approve the findings of fact and ALJ's
10 recommendation, which would be to grant the waiver;
11 is that right?

12 MR. PACKER: Well, it wouldn't be a waiver, but
13 the appeal was of the Commission's denial of her
14 occupational license on the basis of a felony. She
15 was ineligible for the felony waiver because of the
16 character of her offense. So the ruling would be
17 on the denial itself.

18 COMMISSIONER VOWELS: I don't know what kind of
19 motion to make out of all of that.

20 MR. PACKER: To adopt the ALJ's recommendation,
21 which is to approve Ms. Wilson's application for a
22 license

23 COMMISSIONER MURPHY: We have a motion to
24 approve the application for a license.

25 COMMISSIONER SWIHART: Second.

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1 COMMISSIONER MURPHY: The motion has been
2 approved and seconded, that we approve Order
3 2007-7.

4 All in favor?

5 BOARD: I.

6 COMMISSIONER MURPHY: Opposed?

7 Thank you.

8 BRENDA WILSON: Thank you very much. I want to
9 thank Mr. Packer, he has been very helpful to me.
10 I thank all of you.

11 COMMISSIONER VOWELS: How did you get that
12 through so quickly?

13 BRENDA WILSON: I hired a California attorney
14 and he got it done.

15 COMMISSIONER VOWELS: I'm glad you did.

16 EXECUTIVE DIRECTOR YELTON: I would like the
17 record to reflect she has been here a lot longer
18 than anyone and has showed the most tenacity and
19 persistence of anyone I've ever seen.

20 BRENDA WILSON: Thank you. Thank you.

21 MR. PACKER: Next on the agenda for
22 occupational license matters is the disciplinary
23 action of Andres Martinez. Mr. Martinez had
24 submitted a level three occupational license
25 application for Resorts East Chicago to work as a

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1 porter. In 2000, he was issued a temporary license
2 and then a permanent occupational license in 2003.
3 He was arrested on a felony OWI in August of 2006
4 and failed to report it within the required 10
5 days, reporting within the regulations. He did
6 eventually report it in December of 2006 during the
7 annual update form or the recent updated form that
8 accompanies his annual license renewal.

9 The Commission staff considered this to be a
10 serious violation, worthy of some disciplinary
11 action, because the original charge was for a
12 felony OWI. He eventually plead guilty to a
13 misdemeanor OWI, so there was no disciplinary
14 action taken against him because of the nature
15 of the offense but merely because he failed to
16 report it within the required period of time.
17 Mr. Martinez and I agreed on the one-day suspension
18 and a settlement agreement for that disciplinary
19 action is in front of you for a vote.

20 COMMISSION MURPHY: Any questions?

21 COMMISSIONER WALSH: What's the difference
22 between a felony OWI and a misdemeanor OWI?

23 MR. PACKER: A felony OWI can occur if the OWI
24 results in great bodily injury to a person or prior
25 OWI's on the accused's record. In this case,

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1 Mr. Martinez was charged with a felony OWI because
2 he had prior OWI's on his record.

3 COMMISSIONER VOWELS: If I can add, the way
4 that works is if a person is convicted today of a
5 misdemeanor drunk driving and the conviction was
6 entered, within the next five years if they are
7 charged with another drunk driving, it is enhanced
8 to a felony. They had a prior within five years.
9 He was initially charged with a felony and reduced
10 to a misdemeanor.

11 MR. PACKER: He pled guilty to a misdemeanor.

12 COMMISSIONER VOWELS: That is because of his
13 lack of a prior felony record?

14 MR. PACKER: Yes.

15 COMMISSIONER MURPHY: Okay. Any other
16 questions? Do we have a motion?

17 COMMISSIONER SWIHART: So moved.

18 COMMISSIONER VOWELS: I will second.

19 COMMISSIONER MURPHY: It has been approved and
20 been moved and seconded that we approve Order
21 2007-8. All in favor?

22 BOARD: I.

23 COMMISSIONER MURPHY: Opposed?

24 Motion 2007-8 is approved.

25 MR. PACKER: Next on the agenda for the

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1 occupational license matter is a felony waiver
2 report. Before I go into the specific felony
3 waivers themselves, it has been brought to my
4 attention that because of some new members on the
5 Commission and because of the complexity of the
6 felony waiver process, it might be useful to
7 briefly go over that process.

8 When an applicant applies for an occupational
9 license and discloses a felony on his or her
10 application, the gaming agents are instructed to
11 immediately deny that application. The applicant
12 then has the opportunity, within the next 10 days,
13 to apply for a waiver of the felony
14 disqualification that occurs because of that
15 disclosure.

16 We have found in our experience that there are
17 a number of people that when their application is
18 denied and given an opportunity to file for a
19 waiver, they don't follow up on the waiver.
20 That weeds out a percentage of the applicants with
21 felonies on their record.

22 The next step is that the felony waiver
23 application, if submitted, makes its way to
24 Indianapolis to the Commission staff. We review it
25 for several things on a preliminary basis.

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1 First of all, the statute delineates between
2 different types of felonies, the first type
3 which includes all gambling-related felonies and
4 felonies of misrepresentation or fraud. Those
5 people are ineligible for a felony waiver as a
6 blanket prohibition. That was Ms. Wilson's case
7 because of a forgery conviction on her record.

8 The second category is a 10-year ban from
9 applying for a felony waiver. And those are
10 offenses that deal within controlled substances or
11 great bodily injury.

12 And the third is a catchall, all other
13 felonies, OWI's, felonies under the family statute
14 are a five-year ban from the discharge of the
15 sentence.

16 So I characterize it in one of those three
17 categories.

18 Then the next step is to get a letter from the
19 prospective employer, from the riverboat licensee
20 stating that they will employ the applicant if the
21 felony waiver is granted. If those criteria are
22 met, then the felony waiver application moves on to
23 a hearing and comes in front of you.

24 That weeding out process in the last four
25 months has resulted in five felony waiver

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1 applications that are not coming before you today.
2 One of those is because the employer letter stating
3 that the riverboat would employ that applicant is
4 now void, they rescinded their offer of employment.
5 Two of those are because of insufficient
6 information in the application, meaning it would
7 make the application not move forward to the
8 hearing stage. And two additional felony waiver
9 applications have fallen by the wayside because the
10 applicants were ineligible for felony waiver
11 because of the length of time it had been since the
12 discharge of their sentence, probation, prison
13 sentence.

14 That leaves four felony applications that come
15 before you today. The first is of Daniel Stiemann.
16 Mr. Stiemann applied for a level two occupational
17 license to work as a casino host at the French Lick
18 Resort Casino. He disclosed in his application
19 that in 1987 he was convicted of a felony for use
20 of a controlled substance in Colorado. His
21 application was denied, he applied for a felony
22 waiver, he went through those preliminary processes
23 and made it to a hearing. The purpose of the
24 hearing is to determine if the person has been
25 rehabilitated.

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1 There are ten statutory factors the hearing officer
2 must consider and those are set forth on page 2 of
3 the findings of fact and recommendation for
4 Mr. Stiemann under paragraph 11 of the legal
5 procedural background.

6 We went through those factors and a brief
7 summary of those would be the best way to present
8 Mr. Stiemann's case to you today. The nature and
9 duty of his position requires him to interact with
10 customers and provide services to them. He will
11 not have cage access or pit access or anything else
12 that would make staff believe that his position was
13 of a sensitive nature.

14 The nature of his conviction was serious, with
15 the use of a controlled substance. The
16 circumstances of it were kind of odd, also. He was
17 in a financial situation, his neighbor approached
18 him with an opportunity to have a couple mortgage
19 payments paid to make a delivery to Colorado. It
20 turned out that the federal government was putting
21 the neighbor under heavy surveillance.

22 Mr. Stiemann was arrested upon his arrival in
23 Colorado. He was sentenced only to probation. He
24 was not sentenced to any prison time, nor did he
25 have any drug rehabilitation or counseling as part

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1 of his sentence which may or may not, in your
2 opinions, play into the judge's evaluation of the
3 gravity of his defense.

4 Mr. Stiemann reiterated many times in the
5 hearing that he is not a drug dealer or user and
6 this is a one-time mistake, and this is not a type
7 of thing he does on a regular basis. And his
8 criminal record will bear that out. He has three
9 other spots on his criminal record. One is a 1976
10 armed robbery charge that was not prosecuted. One
11 was in 1987, OWI. And the other was failure to
12 yield or turn signal or something of that nature.
13 Mr. Stiemann's offense was isolated. He has had no
14 other activity as to controlled substances.
15 Additionally, his offense does not impugn the
16 Commission's regulatory mission in this case.
17 French Lick says they will hire Mr. Stiemann after
18 being made aware of his history.

19 COMMISSIONER MURPHY: Questions in the felony
20 waiver case?

21 MR. WALSH: What percentage of people who get
22 rejected first never bother to follow up?

23 MR. PACKER: In my year here, it's been
24 somewhere around 40 percent that they do not bother
25 to file a felony waiver application

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1 COMMISSIONER MURPHY: Any questions?

2 If not, is there a motion to accept the felony
3 waiver?

4 COMMISSIONER VOWELS: I will move.

5 COMMISSIONER SWIHART: Second.

6 COMMISSIONER MURPHY: It's been moved and
7 seconded. All in favor?

8 BOARD: I.

9 COMMISSIONER MURPHY: Opposed, same sign.
10 Felony waiver Order 2007-9 approved.

11 MR. PACKER: The next felony waiver in front
12 of the Commission today is for Anthony Barba.
13 Mr. Barba submitted an application to the
14 Commission for a level 3 occupational license to
15 work as a cook. In the meantime, French Lick
16 Resort Casino has offered him a position as a
17 casino host. So in my evaluation, I have analyzed
18 this and reanalyzed it as if he were applying for
19 the casino host position because he will go back
20 and do that.

21 In 1995, Mr. Barba pled guilty to a felony
22 involving a controlled substance in Brooklyn, New
23 York. He pled guilty to a controlled substance
24 III, and was sentenced to 60 days in prison and
25 five years of probation. He served 40 days in

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1 prison and about a year and a half of his probation
2 which expired May 14, 1997.

3 Again, the 10 statutory factors that are listed
4 in paragraph 13 of the legal and procedure
5 background serves as a useful tool in evaluating
6 Mr. Barba's case. The nature and duties of his
7 position are similar to those of Mr. Stiemann, it's
8 a customer service/customer relation type of
9 position. Again, the nature of a controlled
10 substance conviction is rather serious, which is
11 why the statute requires a 10-year ban on felony
12 waiver on people involved in controlled substances.

13 Although Mr. Barba presented clear and
14 convincing evidence, in the hearing officer's
15 opinion, that the controlled substance was not
16 actually his and he was not a drug user or
17 dealer. The details of the situation were that
18 Mr. Barber was driving his vehicle in Brooklyn,
19 New York with three friends, a police officer
20 spotted one of the passengers snorting cocaine off
21 the seat of the vehicle, pulled the car over, and
22 you can fill in the rest of the blanks. Mr. Barba
23 pled guilty to the offense, served his time.

24 The particular weight in my mind is the nature
25 of the offense. Mr. Barba has no other criminal

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1 record. Also a weight is his rehabilitation,
2 although he said he is not a drug user or required
3 to complete any counseling or treatment as a
4 function of his sentence. He did move to Indiana a
5 few short months after being released from prison
6 and started his life, basically, from scratch, and
7 that is a sign of rehabilitation in my mind.

8 Finally, French Lick Resort Casino has
9 indicated they will hire Mr. Barba even after being
10 made aware of his criminal history.

11 COMMISSIONER MURPHY: Questions?

12 COMMISSIONER VOWELS: You are stating that we
13 have to wait until May 14th actually to --

14 MR. PACKER: That's correct. I'm sorry, I
15 forgot to bring that up. Because his probation did
16 not end until May 14, 1997, he is not statutorily
17 eligible for felony waiver until May 14th. But
18 because of the close nature of that, I proceeded
19 with the application with the understanding with
20 Mr. Barba that if his felony waiver was granted, it
21 would not be effective until May 14th when he is
22 statutorily eligible.

23 COMMISSIONER VOWELS: In this Order 2007-10,
24 should there be made some references in there? I
25 don't see any reference in the May 14, 2007.

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1 MR. PACKER: In the final order, yeah, there
2 will be.

3 COMMISSIONER VOWELS: Mr. Chairman, with that
4 in mind, with nothing further, I will move to
5 approve this order.

6 COMMISSIONER: Second.

7 COMMISSIONER MURPHY: All in favor?

8 BOARD: I.

9 COMMISSIONER MURPHY: Opposed?

10 Order 2007-10 is accepted

11 MR. PACKER: Thank you, Mr. Vice Chair.

12 2007-11 is the matter of Jason Guthrie.

13 Petitioner Jason Guthrie has applied for a level 2
14 occupational license to work as a table game
15 dealer, specifically craps, at French Lick Resort
16 Casino. He disclosed in his occupational license
17 application that in 1993 he was convicted of a
18 felony, OWI, in Lawrence County, Indiana. This is
19 much like Mr. Martinez, felony OWI; this was as a
20 result of priors. As you may see in the materials
21 provided, Mr. Guthrie had another relapse on to
22 some alcohol problems in 2004. After serving his
23 sentence for the felony OWI in '93, in '04 he had
24 two OWI misdemeanor convictions.

25 And the emphasis of my analysis of his

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1 rehabilitation is focused on since 2004. He
2 explained that he went through a work release
3 program during the 1993 OWI and also attended a
4 counseling session; but in 2004 in conjunction with
5 his misdemeanor OWI's, he did a more intensive
6 counseling program that lasted approximately six
7 months.

8 Additionally, he continues to track his
9 progress. He stated to me he has not had a drink
10 in 312 days, and expressed remorse over the
11 situation, and that he would take this new position
12 seriously, and that his alcohol troubles were
13 behind him.

14 Again, the statutory factors are useful tool in
15 evaluating Mr. Guthrie's case. The nature and
16 duties of his position do require handling of the
17 chips and there is a potential for fraud or deceit
18 because of possible cheating with players or
19 patrons, but the nature of Mr. Guthrie's felony is
20 not such that I would believe that his character or
21 his propensity would involve any kind of deceitful
22 or misrepresentation or fraudulent activity in
23 conjunction with his job.

24 Additionally, French Lick Resort Casino has
25 stated that they will hire Mr. Guthrie if the

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1 felony waiver is granted.

2 COMMISSIONER MURPHY: Questions on
3 Mr. Guthrie? If not, is there a motion to accept
4 Order 2007-11?

5 COMMISSIONER VOWELS: I will move to accept the
6 order.

7 COMMISSIONER SWIHART: Second it.

8 COMMISSIONER MURPHY: It's been moved and
9 seconded. All in favor?

10 BOARD: I.

11 COMMISSIONER MURPHY: Opposed?
12 Order 2007-11 is accepted.

13 MR. PACKER: The final felony waiver matter
14 before you today is that of Donald Hepp.
15 Mr. Hepp submitted an application for a level 2 to
16 work as a cage cashier at French Lick Resort
17 Casino. And he disclosed in his application that
18 in 1982 he pled guilty to felony incest in Clark
19 County, Indiana. He was sentenced to two years in
20 prison and six months probation. He served six
21 months of that in prison in Westville and attended
22 counseling both before and after his prison
23 sentence. He was otherwise eligible for a felony
24 waiver and the hearing was conducted on March 1st
25 to inquire as to the degree of his rehabilitation.

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1 Once again, the statutory factors for
2 rehabilitation are useful, the useful framework for
3 evaluating Mr. Hepp's application for a felony
4 waiver. Mr. Hepp's position is of a sensitive
5 nature and involves handling large sums of money as
6 a cage cashier. He takes the patron's chips or
7 tickets and exchanges them for money. However, the
8 nature of his offenses is not such that it would
9 impugn his financial -- would not imply he has a
10 propensity for financial corruption or deceit or
11 any other concerns of that nature. The offense is
12 clearly a grave offense.

13 Mr. Hepp has altered his life considerably in
14 the meantime. He got out of the marriage he was in
15 at that time. He has rehabilitated his
16 relationship with the victim. I spoke with the
17 victim on the telephone and the victim indicated
18 that there are no qualms about having family
19 members or children around Mr. Hepp and that she
20 has a relationship with him that she described as
21 normal, they see each other a couple of times a
22 month. Her opinion is that he has been
23 rehabilitated and made changes in his life.

24 Mr. Hepp also presented evidence that in the 25
25 years since the offense, he has not had any

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1 relapses into this kind of behavior. Additionally,
2 he credited the doctors at Westville and his time
3 there as giving him an opportunity to change his
4 behavior and not have any further incidences of
5 this nature. Additionally, his complete criminal
6 record is void of any other incest or sex crimes.
7 The other blemishes on his record is traffic
8 tickets and one failure to appear on a debt
9 collection matter.

10 Additionally, French Lick Resort Casino has
11 indicated that they will hire
12 Mr. Hepp if the Commission grants his felony
13 waiver.

14 COMMISSIONER MURPHY: Questions on Donald Hepp?

15 COMMISSIONER VOWELS: I have no questions.

16 Does anyone else have any questions?

17 I would like to say a thing or two. This is,
18 obviously, a very sensitive nature, this type of
19 offense. The best thing that Mr. Hepp has going
20 for him here is that it has been 25 years since
21 that offense occurred and he has had an unblemished
22 record since that time. There is nothing in the
23 nature of what his position would be at French Lick
24 that this type of offense would be related to that
25 part that would cause us any problems.

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1 It would be really easy for us -- for me to
2 just say this is so disgusting I'm going to deny
3 the felony waiver, but that is not why I'm on this
4 Commission. We have to make hard decisions. It
5 appears to me that 25 years of an unblemished
6 record and your discussions with the victim leads
7 me to the position where I would vote to grant this
8 felony waiver. So with that said, I have nothing
9 further.

10 COMMISSIONER MURPHY: Do we have a motion?

11 COMMISSIONER VOWELS: I will move.

12 COMMISSIONER SWIHART: Second.

13 COMMISSIONER MURPHY: Moved and seconded. All
14 in favor?

15 BOARD: I.

16 COMMISSIONER MURPHY: Opposed?

17 Order 2007-12 is accepted.

18 MR. PACKER: Thank you, Mr. Vice Chair.

19 COMMISSIONER MURPHY: The next item of business
20 will be supplier licensee matters presented by
21 Kesha Rich.

22 MS. RICH: You have before you Order 2007-13
23 concerning the renewal of supplier licenses.
24 Pursuant to Indiana Code 4-33 and 68 IAC 2-2, the
25 Commission has previously approved the permanent

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1 supplier's license for the following seven
2 companies: Midwest Game Supply Co.; IGT; Fidelity
3 National Transaction Services, Inc.; AC Coin; WMS
4 Gaming, Inc.; Bally Technologies, Inc.; and Dallman
5 Systems, Inc.

6 A supplier's license is valid for a period of
7 one year. Pursuant to IC 4-33-7-8 and
8 68 IAC 2-2-8, supplier's license must be renewed
9 annually and a payment of \$5,000 for the annual
10 renewal fee must be remitted. Each of these
11 licensees has requested a renewal of their license
12 and has paid the appropriate renewal fees.

13 The Commission staff recommends that you
14 approve the renewal of the licenses for the seven
15 suppliers.

16 COMMISSIONER MURPHY: Is there a motion to
17 approve?

18 COMMISSIONER SWIHART: So moved.

19 COMMISSIONER VOWELS: I will second.

20 COMMISSIONER MURPHY: It's been moved and
21 seconded. All in favor?

22 BOARD: I.

23 COMMISSIONER MURPHY: Opposed?

24 Order 2007-13 is approved.

25 MS. RICH: Thank you.

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1 COMMISSIONER MURPHY: The next matter of
2 business will be the riverboat owner's matters
3 presented by Phil Sicuso.

4 GENERAL COUNSEL SICUSO: Thank you, Mr. Vice
5 Chair.

6 I'm going to try to handle 2007-14 and 15
7 together. They are two financing matters that are
8 very similar. Both orders as proposed would ratify
9 interim financing approvals which were extended by
10 Executive Director Yelton on February 6, 2007 to
11 Harrah's Operating Company and Pinnacle
12 Entertainment respectfully.

13 Executive Director Yelton's interim approvals
14 authorize Harrah and Pinnacle to finalize their
15 respective financing proposals without receiving
16 prior approval from the full Commission and without
17 waiting to satisfy the two requirements in our
18 regulations.

19 The debt transaction at issue for Harrah's,
20 which is in your materials, was a request to
21 approve additional financing up to 2.25 billion
22 dollars through a new unsecured credit facility.
23 Half of which would be a term loan and half of
24 which would be a revolver. Each with a floating
25 interest rate and three-year maturity.

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1 The debt transaction at issue for Pinnacle was
2 an offering of senior subordinated notes with an
3 aggregate face value of up to 750 million dollars
4 with a an interest rate up to 8.5 percent, with a
5 7 and 12 year maturity term.

6 Resolution 2006-10 requires that Executive
7 Director Yelton's interim approvals be brought
8 before you at the next Commission meeting so the
9 Commission can have an opportunity to direct
10 additional or different action.

11 You have all been provided with Executive
12 Director Yelton's interim approval letter
13 and our outside finance expert's opinion,
14 Dr. Charlene Sullivan, on both matters so that
15 you can have your vote today.

16 Commission staff recommends that you ratify the
17 previously extended interim approvals by approving
18 Orders 2007-14 and 15 at this time.

19 COMMISSIONER MURPHY: Questions on either
20 order?

21 Is there a motion to approve?

22 COMMISSIONER VOWELS: So moved.

23 COMMISSIONER WALSH: I will second.

24 COMMISSIONER MURPHY: It's been moved and
25 seconded. All in favor?

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1 BOARD: I.

2 COMMISSIONER MURPHY: Opposed?

3 Orders 2007-14 and 15 are approved. Thank you.

4 Next item will be disciplinary actions
5 presented by Chris Gray

6 MS. GRAY: Good afternoon, Commissioners.

7 You have before you six settlement agreements
8 concerning disciplinary actions.

9 The first settlement is with Casino Aztar,
10 Order 2007-16, which includes 10 counts. The first
11 count involves three different sensitive key
12 violations and access to sensitive areas.

13 In the second count, Aztar violated the rule to
14 require riverboat licensee to inform the Commission
15 within 15 days of an employee job transfer.

16 The third count involves the discrepancy of
17 patron admissions between the primary and secondary
18 turnstiles. Upon discovery, security officers
19 began hand counting patrons using clickers. The
20 casino demonstrated a lack of confidence in the
21 turnstiles by requiring the use of the clickers,
22 yet they did not use the information until told to
23 do so, from the clickers, to determine the accurate
24 count for the RG-1. The casino violated admission
25 rules requiring the reporting of all methods of

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1 counting to insure accuracy.

2 The fourth count involves four incidents of
3 underaged persons.

4 The fifth count involves a violation of the
5 requirement to cover chips with a locked
6 transparent cover when the gaming table is closed.

7 The sixth count, there were four violations of
8 the sensitive key rules involving slot machine
9 doors and count room doors being left unlocked.

10 The seventh count violated an internal control
11 requiring the floor supervisor, in the presence of
12 a dealer, to run all decks of cards from the table
13 through a deck checker.

14 The eighth count involves the violation of
15 several rules when a drop box came up missing.
16 The incident was not timely reported and the
17 surveillance footage could not be viewed. The
18 contents of the box, both the currency and tickets,
19 have never been recovered.

20 The ninth count involves untimely filing of the
21 RG-1 and RG-2.

22 The final count violated the proper announcing
23 of no more bets on the roulette table.

24 Aztar has agreed to pay a total fine of
25 \$160,500 in lieu of a disciplinary action for these

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1 10 counts. The Commission staff recommends that
2 you approve the settlement agreement.

3 COMMISSIONER MURPHY: Questions?

4 COMMISSIONER VOWELS: That count nine, related
5 to filing of the tax forms, is that because there
6 was one signature rather than two?

7 MS. GRAY: Yes.

8 COMMISSIONER VOWELS: It wasn't because they
9 didn't file their taxes, but they didn't have the
10 second person sign off?

11 MS. GRAY: Right. That is correct.

12 COMMISSIONER VOWELS: Nothing else.

13 COMMISSIONER MURPHY: Is there a motion to
14 approve?

15 COMMISSIONER SWIHART: So move.

16 COMMISSIONER VOWELS: Seconded.

17 COMMISSIONER MURPHY: Moved and seconded.

18 All in favor?

19 BOARD: I.

20 COMMISSIONER MURPHY: Opposed?

21 Order 2007-16 is approved.

22 MS. GRAY: Thank you.

23 The second Order, 2007-17, is a settlement
24 agreement with Belterra in which an underaged
25 person was discovered at a blackjack table.

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1 Belterra has agreed to a fine of \$4,500 in lieu of
2 a disciplinary action. And the Commission staff
3 recommends approval of the settlement agreement.

4 COMMISSIONER MURPHY: Question on order
5 2007-17?

6 If not, is there a motion to approve?

7 COMMISSIONER VOWELS: I will move to approve.

8 COMMISSIONER SWIHART: Second.

9 COMMISSIONER MURPHY: Moved and seconded.

10 All in favor?

11 BOARD: I.

12 COMMISSIONER MURPHY: Opposed?

13 Order 2007-17 is approved.

14 MS. GRAY: Thank you.

15 The third Order, 2007-18, is a settlement
16 agreement with Blue Chip wherein three underaged
17 persons were allowed to board the casino. Blue
18 Chip has agreed to a fine of \$18,000 in lieu of a
19 disciplinary action. The Commission staff
20 recommends approval of the settlement agreement.

21 COMMISSIONER MURPHY: Questions on order
22 2007-18?

23 COMMISSIONER VOWELS: The agreed fine is
24 \$18,000; is that right?

25 MS. GRAY: Yes.

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1 COMMISSIONER VOWELS: There is a graduating
2 fine based on what's going on. And it is my
3 understanding this is the third, fourth, fifth time
4 this has happened in a six-month period?

5 MS. GRAY: Correct.

6 COMMISSIONER VOWELS: Five times in a six month
7 period seems higher than we normally see it; does
8 it not?

9 MS. GRAY: Yes.

10 COMMISSIONER VOWELS: Has Blue Chip made any
11 representations to you or anybody else in the
12 Commission about why they have a problem here or
13 how they are going to rectify it?

14 MS. GRAY: Well, Blue Chip has -- normally what
15 they do is they immediately terminate the employee
16 when this happens.

17 COMMISSIONER VOWELS: It sounds to me like
18 there's not going to be anybody left.

19 MS. GRAY: But that's normally what they do.
20 All of the employees are very much aware of that.
21 And so I'm not quite sure that there is much they
22 can do other than terminate them as soon as this
23 occurs.

24 COMMISSIONER VOWELS: Okay. There is something
25 missing. Maybe they aren't telling the others

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1 MS. GRAY: I think that gets around.

2 COMMISSIONER VOWELS: Okay. I don't have
3 anything further.

4 COMMISSIONER MURPHY: No more questions. Do I
5 have a motion to approve?

6 COMMISSIONER VOWELS: I will move to approve.

7 COMMISSIONER SWIHART: Seconded.

8 COMMISSIONER MURPHY: Moved and seconded. All
9 in favor?

10 BOARD: I.

11 COMMISSIONER MURPHY: Opposed?

12 Order 2007-18 is approved.

13 MS. GRAY: Thank you.

14 Order 2007-19 is a settlement agreement with
15 Caesar's involving cage paperwork that was
16 corrected improperly. The casino was informed of
17 the problem following an IGC program audit but
18 failed to correct before a follow up audit was
19 conducted. Caesar's has agreed to fine of \$3,000
20 in lieu of disciplinary action. The commission
21 staff recommends approval of this settlement
22 agreement.

23 COMMISSIONER MURPHY: Question on Order
24 2007-19?

25 COMMISSIONER SWIHART: Move to accept.

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1 COMMISSIONER VOWELS: Second.

2 COMMISSIONER MURPHY: It's been moved and
3 seconded. All in favor?

4 BOARD: I.

5 COMMISSIONER MURPHY: Opposed?

6 Order 2007-19 is approved.

7 MS. GRAY: Order 2007-20 is a settlement
8 agreement with Horseshoe Casino in which an
9 underaged person was allowed to board the vessel.
10 Horseshoe has agreed to a fine of \$1,500 in lieu of
11 disciplinary action. The Commission staff
12 recommends approval of this settlement agreement.

13 COMMISSIONER MURPHY: Any questions on order
14 2007-20?

15 COMMISSIONER SWIHART: Move to approve.

16 COMMISSIONER VOWELS: Seconded.

17 COMMISSIONER MURPHY: Moved and seconded.

18 All in favor?

19 BOARD: I.

20 COMMISSIONER MURPHY: Opposed?

21 Order 2007-20 approved.

22 MS. GRAY: The final Order is 2007-21, is a
23 settlement agreement with Majestic Star I and II
24 involving two counts.

25 In the first count, the cage cashier failed to

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1 sign out her key at the beginning of her shift.
2 This violated the rule requiring sensitive keys to
3 be assigned for on a log.

4 In the second count, an underaged person was
5 allowed to board the casino.

6 Majestic Star has agreed to pay a total fine of
7 \$5,500 in lieu of a disciplinary action. The
8 Commission staff recommends you approve the
9 settlement agreement.

10 COMMISSIONER MURPHY: Question on Order
11 2007-21?

12 COMMISSIONER VOWELS: Motion to approve.

13 COMMISSIONER SWIHART: Second.

14 COMMISSIONER MURPHY: It's been moved and
15 seconded.

16 All in favor?

17 BOARD: I.

18 COMMISSIONER MURPHY: Order 2007-21 approved.

19 MS. GRAY: Thank you.

20 COMMISSIONER MURPHY: Our next item of business
21 will be rule-related matters, Phil Sicuso.

22 GENERAL COUNSEL SICUSO: Thank you.

23 Resolution 2007-22, as proposed, would adopt an
24 emergency rule which would make certain amendments
25 to the regulatory definitions of two terms, those

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1 being key persons and substantial owners.

2 Under our regulations, all key persons are
3 required to submit Personal Disclosure Form 1 as
4 part of a corporate application for a riverboat
5 license or supplier's license. As it is currently
6 defined in the code, however, we have found those
7 terms to be excessively broad, to contain very
8 vague language, and to be so similar in some
9 respects that they are actually redundant of each
10 other. It serves little affective purpose.

11 The amended definitions would serve to
12 differentiate the two terms, as well as to focus
13 their scope or -- well, to reflect the
14 characteristics that we believe describe
15 individuals who the staff believes needs to be
16 investigated as part of any corporate application
17 for a riverboat owner or supplier license.
18 The changes, however, do nothing to restrict the
19 Commission's ultimate authority to investigate
20 anybody they deem is necessary to be investigated
21 based upon certain scenarios.

22 The need for amendment to the rule is immediate
23 and substantial and we need to do an emergency rule
24 because the background and financial investigation
25 section of the Division of Gaming Agency is on the

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1 verge of completing a comprehensive overhaul of the
2 PD1 application. Their preference is to use these
3 two new definitions in their application. And we
4 feel that there is a need to define these two terms
5 consistently, both in our regulations and in our
6 application materials.

7 If approved, the emergency rule would be
8 effective for up to 180 days, during which time the
9 Commission staff would be required to pursue the
10 statutorily required procedures for promulgating
11 these definitions into final and permanent
12 regulations.

13 With this in mind, and you don't have any other
14 questions, we recommend that you approve Resolution
15 2007-22 which would authorize the emergency rule to
16 change these two definitions.

17 COMMISSIONER MURPHY: Questions on Resolution
18 2007-22?

19 COMMISSIONER WALSH: You use the word
20 promulgating.

21 GENERAL COUNSEL SICUSO: Unfortunately,
22 sometimes I dream that word.

23 COMMISSIONER MURPHY: Other questions? Do I
24 have a motion to approve?

25 COMMISSIONER WALSH: So moved.

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1 COMMISSIONER SWIHART: I will second that.

2 COMMISSIONER MURPHY: It's been moved and
3 seconded. All in favor?

4 BOARD: I.

5 COMMISSIONER MURPHY: Opposed?
6 Resolution 2007-22 is approved.

7 The next Resolution is 2007-23, will be
8 presented to us by Lea Ellingwood

9 MS. ELLINGWOOD: Good afternoon. Welcome,
10 again, Mr. Cummings to the Commission.

11 You have before you Resolution 2007-23
12 regarding conduct of Charity Gaming. In July of
13 last year, oversight of Charity Gaming was
14 transferred to the Gaming Commission and, shortly
15 thereafter, the Commission staff began the process
16 of adopting a comprehensive rule governing the
17 conduct of Charity Gaming. As part of the
18 rulemaking process, the Commission staff wrote a
19 small business economic impact statement and
20 submitted it to the Indiana Economic Development
21 Corporation. Shortly thereafter, they verbally
22 approved the impact statement we submitted.

23 Weeks after the Commission adopted the Charity
24 Gaming rule in November of 2006, the IEDC forwarded
25 written comments regarding the impact statement to

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1 the Commission staff so that members of the public
2 would have an opportunity to comment on IEDC's
3 written comments. We suspended the rule-adopting
4 process and scheduled another public hearing which
5 was held this past January 3rd.

6 The Commission staff made changes to the rule
7 based on the comments we received from that
8 hearing. Copies of the hearing transcript and
9 written comments have been provided to you, along
10 with a red line version of the rule which
11 illustrates the difference between the rule you
12 adopted in November and the rule as it appears
13 before you today.

14 The Commission staff recommends that you vote
15 to approve the resolution, adopting the final rule
16 before you, which will then become effective upon
17 approval by the Attorney General's office and the
18 Governor's office.

19 COMMISSIONER MURPHY: Questions on Resolution
20 2007-23? If not, is there a motion to approve?

21 COMMISSIONER SWIHART: So moved.

22 COMMISSIONER VOWELS: Second.

23 COMMISSIONER MURPHY: Moved and seconded. All
24 in favor?

25 BOARD: I.

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1 COMMISSIONER MURPHY: Opposed?

2 Resolution 2007-23 is approved.

3 MS. ELLINGWOOD: Thank you.

4 COMMISSIONER MURPHY: Thank you.

5 The next item of business is other business and
6 I will turn it over to Executive Director Yelton.

7 EXECUTIVE DIRECTOR YELTON: Thank you,
8 Mr. Chair.

9 Your Deputy Director, Ms. Arnold has reminded
10 me that during my report I rudely omitted her.
11 Rude is not the word she used. In any event, I
12 would like to call on Ms. Arnold to give an update.

13 MS. ARNOLD: Good afternoon, Commissioners.

14 As you know, we have been in the process, with
15 the Center of Urban Policy and Environment, of
16 conducting a gaming industry specific to the
17 disparity study. We have received a draft from the
18 Center of Urban Policy that we intend to share with
19 you and members of our advisory group within the
20 coming days. We are also in the process of
21 contracting with the Indianapolis law firm of
22 Coleman, Graham, and Stevenson for a legal review
23 of the study.

24 I know you are going to say you've heard this
25 before. But at the next meeting, we are going to

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1 have the study ready for your review, and along
2 with that we will have recommendations regarding
3 the establishment of minority in women's business
4 utilization rules.

5 Thank you.

6 COMMISSIONER MURPHY: Thank you.

7 The next item of business is Resolution 2007-24
8 presented by Andrew Klinger.

9 MR. KLINGER: Thank you.

10 I believe this is the last matter on the agenda
11 for action today.

12 This resolution, Resolution 2007-24, would
13 grant the executive director the authority to
14 approve changes in the odds that a riverboat may
15 offer on bets in the game of craps. Under the
16 existing rules, the executive director already has
17 the authority to approve the rules of the game of
18 craps, and those rules would include the odds that
19 are offered on craps wagers. However, the
20 regulations also appear to require a duplicative
21 approval in this particular situation when a
22 riverboat wants to change the odds that they offer
23 on a craps wager.

24 The resolution before you would help clarify
25 these requirements by declaring that the approval

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1 of odds -- of changes to the odds in a craps game
2 is an executive function and grants the executive
3 director the authority to grant those approvals.

4 If you have no questions, then the staff
5 recommendation would be to approve Resolution
6 2007-24.

7 COMMISSIONER MURPHY: Are there any questions?
8 If none, then, a motion?

9 COMMISSIONER SWIHART: So move.

10 COMMISSIONER VOWELS: I will second.

11 COMMISSIONER MURPHY: It's been moved and
12 seconded. All in favor?

13 BOARD: I.

14 COMMISSIONER MURPHY: Resolution 2007-24
15 approved. Thank you.

16 The next item is that we have a request for the
17 Commission to speak by the Indiana Coalition
18 against Legalized Gambling. Welcome.

19 MR. CLAVEZ: Executive Director -- you will
20 have to excuse me, I'm going through a recovery of
21 a bad cold and sinus.

22 Mr. Vice Chair and Members of the Commission, I
23 want to thank you for the opportunity of speaking
24 before you. I am Lorin Clavez, I'm a retired
25 United Methodist Pastor with 42 years experience,

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1 mostly up in North Indiana. I was born in Hammond
2 and raised in Dyer, and now live in retirement in
3 Fishers. I have been in this position for just one
4 year and still have much to learn about the
5 political process. But I have heard that, even
6 from people who have served as representatives and
7 senators, that it is an ongoing learning process.

8 One of the Indiana Coalition Against Legalized
9 Gambling concerns come by way of one of our
10 members, Walter Shoultz. He sent an open letter to
11 the members of the Commission and concerns that he
12 had. And I will leave copies of that with for the
13 entire Commission. And we hope that this is
14 something that you would look at, if you haven't
15 already, and to take it seriously.

16 His contention is that we see the Commission
17 responsible for several priorities. One is, that
18 you have a priority to represent the State of
19 Indiana. Second, you have a priority of
20 representing and working with those who run the
21 gambling games. But third is, as a Commission in
22 the State of Indiana there is the obligation to
23 make sure that the welfare of the citizen is
24 protected. And that is an area that we sometimes
25 don't always see.

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1 One of my own pet peeves -- we always talk
2 about truth in advertising, and it irritates me to
3 see when I go into the grocery store "\$5,400 was
4 won this past week." I would love to see one time
5 when they would say, "And this is what they had to
6 spend in order for those to win." I think it's
7 obvious that the lottery is probably the most
8 obvious visible form of gambling that we have in
9 Indiana, because they can buy it at convenience
10 stores, grocery stores, almost anyplace.

11 So one of our concerns is also the fact that it
12 is then an -- easy to target the lower economic
13 groups of citizens. I guess we are concerned -- I
14 don't guess, I know we are concerned that we don't
15 always understand what the cost of gambling is. We
16 have produced a white paper on the concerns on
17 expansion of gambling in Indiana and I will give
18 copies of that to you as well.

19 There are four areas that we are concerned
20 about. The riverboat casinos are constantly
21 increasing the size of their boats and allowing for
22 more gambling positions. We have heard our
23 governor state he is against any expansion of
24 gambling. But when a casino boat goes in and
25 doubles their size and maybe doubling the amount of

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1 their gambling stations, is that not an expansion
2 of gambling.

3 In discussion of this issue, I have discovered
4 that the issue might lie in, who makes the
5 definition? Who defines how many gambling
6 positions should be allowed at each riverboat? It
7 is my understanding right now there is nothing in
8 writing. If there isn't, why not? And if there
9 should be, who is going to take the initiative?

10 We are also concerned about the whole thing
11 with the slot machines at the racetracks.
12 Hopefully, that will not come through, but our
13 questions are also if 2,500 slots go into each of
14 the two racetracks, will that not simply make it a
15 land based casino? And how are the casino boats
16 going to respond to that? Is that unfair
17 competition? It has been felt that we are heading
18 towards land based casinos, and that's the
19 direction we have been heading ever since we
20 started.

21 We also know that there is talk about the
22 electronic gaming devices being allowed in the
23 fraternal organizations, as well as certain
24 restaurants that have a liquor license that serve
25 on the premises. This may not go through, but our

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1 concern is still that it literally would almost
2 make the entire State of Indiana one casino.

3 Our fourth concern is the whole privatizing of
4 the State lottery. It's amazing how presidents of
5 the universities, representatives of the police and
6 fire, fire people, and teachers sort of drool with
7 the idea of unfunded liability being picked up.
8 But here, again, it is a question of what is the
9 true cost of gambling, especially with the lottery?

10 About a year ago, we heard in the house chamber
11 a report stating the benefits outnumber the cost by
12 about 750 million dollars. The thing I was
13 concerned about, though, is that somebody said this
14 was not a definitive study. And somebody says,
15 "What would it take?" And the person indicated
16 that it would take at least 12 to 18 months to do
17 the study, but it would also cost up to a billion
18 dollars. And I was dismayed to hear one of the
19 representatives present say, "We will never do
20 that."

21 We either need to be concerned about what the
22 cost of gambling is or begin to be honest with
23 ourselves about it. Have we become so addicted to
24 the revenues of gaming that we cannot stop? We
25 need some courageous leadership in Indiana to

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1 discover some of these answers, and I hope you will
2 be a part of that discovery.

3 I again thank you for allowing me to speak to
4 you. At this time, I would also like to recognize
5 we have with us this afternoon: Reverend Tom Gray,
6 who is the spokesperson for the National Coalition
7 Against Legalized Gambling. And you probably know
8 this, but there is an awful lot of United Methodist
9 pastors involved in that. In the State of Indiana
10 we have over, 1200 churches and pastors, and this
11 is one of the most fine representations that we
12 have with Tom.

13 MS. ARNOLD: Before you continue, I would like
14 to say that it's nice to meet you in person,
15 finally, after our telephone conversation. And
16 that we look forward to working with you.
17 Commission staff has had a long and productive
18 relationship with the coalition. We have worked
19 together on legislative issues. We find that the
20 coalition is very valuable when we look at
21 policies. I do think that a lot of the things
22 you've mentioned today are not within our purview,
23 like we discussed before. I think that the
24 legislature should be made aware of your views. We
25 would stay neutral on those views, but if you need

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1 assistance with introduction or anything in the way
2 of making your views known to the legislature, we
3 would be glad to assist you and work with you as we
4 have worked with the coalition for many, many
5 years.

6 MR. CLAVEZ: And we would appreciate input from
7 you as far as those areas that you don't feel is
8 under your jurisdiction, and would refer to us.

9 EXECUTIVE DIRECTOR YELTON: Reverend, quite
10 frankly, all four of our legislative division is
11 not issues of policy that this Commission has the
12 authority, as Ms. Arnold was trying to explain.

13 MR. CLAVEZ: The question still remains,
14 though, who makes that definition?

15 EXECUTIVE DIRECTOR YELTON: The legislature

16 MR. CLAVEZ: And why haven't they? And I know
17 you can't speak for them.

18 EXECUTIVE DIRECTOR YELTON: That's a far good
19 question. Thank you.

20 MR. CLAVEZ: That's a rhetorical question.

21 COMMISSIONER MURPHY: Thank you, Mr. Clavez.
22 Would Reverend Gray like to speak?

23 REVEREND GRAY: Thank you. I appreciate the
24 opportunity before you this afternoon. My
25 experience, and I appreciate getting information

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1 from the Indiana Commission, that you understand I
2 encouraged and personally participated in the
3 process in my home State of Illinois, also
4 Missouri, Las Vegas, New Jersey when issues have
5 arisen that had to do with regulations and where
6 the public participation might be important. So I
7 do appreciate -- I know John Wolf has worked with
8 you over past years, and so I look at this as a
9 building opportunity.

10 First and foremost, you have a difficult job.
11 I was sitting there thinking this is really
12 entertainment, like shopping in the movies, but I
13 can't imagine any regulatory body of movies that
14 takes as much staff and work and looking and
15 occupation licenses and felony background checks;
16 so you really have an enormous task.

17 But when gambling was brought to the public, it
18 was brought on the basis it would be most
19 regulated; because this was something that was a
20 criminal activity, the mob did it, and if the
21 government was going to get into it, it was going
22 to be above reproach. And you are the staff and
23 appointees that do that.

24 So it behooves the public to participate in a
25 full manner so that that process might work.

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1 Then you get USA Today and you have got
2 international cheats coming after you. I sort of
3 have the image -- I saw James Bond, the new one,
4 Casino Royale. I don't think it's James Bond with
5 a blonde on his arm that's trying to tap into these
6 slot machines; but there is money there, so you
7 have got that going.

8 You also to have to make sure the games are
9 fair. There are times when you really have got to
10 stop -- I see up in Canada they had some machines
11 they had to pull that were showing jackpots and
12 they had to pull them. So you have an enormous
13 pressure on just making sure the games are fair,
14 people have confidence cheaters can't get at it.

15 You also then have the problem of
16 self-exclusion and addiction. You really do have a
17 responsibility. This is an addictive product.
18 And know one wants -- and the casino owners always
19 tell me, you don't want someone to lose their
20 livelihood, house or whatever. One pathological
21 gambler is too many. But how many are in exclusion
22 now?

23 COMMISSION STAFF: Around 1,600.

24 REVEREND GRAY: 1,600. Illinois is hitting
25 5,000. It depends on when they started the program

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1 as to how many. But those are people that are
2 just -- pathological disease, they can't do it. So
3 you have that responsibility. The fact that you
4 have self-exclusion, I hope you support it in a
5 full way and I hope the casinos do. We have asked
6 everyone be checked. They shouldn't slip through
7 the cracks. I don't know if your system works, but
8 in Illinois the only way they catch them is if they
9 win. And then they don't pay them, they take the
10 money. But if they lose they can walk straight out
11 of that casino without any ID check.

12 The last pressure is the profit pressure, and
13 that's really a tough one. Because the government
14 wants you to produce that money. At the end of the
15 day, how much is going to be in that budget that is
16 generated from gambling? That pressure of revenue
17 often sees one state pitted against the other
18 state. When I started, did you realize in Iowa the
19 first riverboat you had to pay \$19.95 to get on it,
20 and that was lunch. Dinner was \$29.95 to get on,
21 to then gamble on a ship that cruised. And 70
22 percent of it was entertainment space and 30
23 percent was gambling space.

24 Well, Illinois came in and said, "Gee, those
25 over in Iowa, forget this. We will have a low

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1 charge and wall-to-wall slot machines. We don't
2 need to do entertainment. In fact, we won't have
3 any limit on the gambling," because Iowa had a
4 limit, \$5.

5 Well, you got in the game and I met with
6 Governor George Ryan. I will never forget, in
7 1999 I met the governor and he said, "I will
8 allow land-based gambling because they have it
9 in Indiana." Now, I'm a little guy, but I
10 certainly knew that Indiana did not have land-based
11 gambling in 1999.

12 And I said that to the governor and he got red in
13 the face. I want you to know, he is in jail or
14 going to jail and I'm not.

15 What happened is that lobbyists in Indiana and
16 in Illinois -- because both companies work in both
17 states. Do you understand that? This is not local
18 competition anymore. What was happening is that
19 they were playing Illinois and using Indiana and
20 they approved dockside gambling. And with that,
21 profits went up 20 percent. So with the approval
22 of dockside was an expansion of gambling; because
23 when profits go up, you expand your profitability.

24 Well, what did you do in Indiana, then?
25 Illinois has dockside gambling and to compete

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1 legislatively, the legislature then says, "Let's go
2 to dockside." So those are pressures that are not
3 in your purview, but they are real because
4 legislative -- as you said, the legislature acts
5 and they then dictate.

6 Now, there are three ways to expand gambling
7 and I will wrap up quickly. You can do it at the
8 ballot box. And just so you know, in 2004 there
9 has been nine statewide referendums on gambling,
10 expansion of casinos. You know what? We have won
11 all nine.

12 Now, you in Indiana know that not only gets you
13 in the Super Bowl, but you win with a perfect
14 record. Nine states that have gambling, when
15 citizens have walked into a ballot box they say,
16 "We don't want it to go any further." So there is
17 a real concern about how much gambling we should
18 have. It's not up to you to vote on that, you
19 regulate it. But the climate of expansion of
20 gambling, when people have a chance to walk into a
21 ballot box they are saying, "We've had enough."

22 Secondly, legislatures can expand gambling.
23 And the State that has done it is Pennsylvania.
24 They passed a massive expansion of gambling of
25 61,000 machines. But I want you to know there were

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1 22 other states that were trying to expand that we
2 held the line in. So legislatures are not rushing
3 to expand. The bills are always there, the
4 pressure is always there. But I don't want you to
5 believe that this is inevitable, it's the force of
6 history. It might not even be desirable in the
7 long run.

8 The third way, and what is before you today, is
9 that you can expand it through regulatory rules.
10 And I printed, specifically, my objections. But
11 let me tell you how I perceive this rule change, of
12 what's going on. Just to give you an indication of
13 how the public might perceive it.

14 First of all, the rule change is being worked
15 on a staff level. And the hiring of ABS to work on
16 that, while also working for the casinos that want
17 to make the changes, there is an appearance to
18 that. I mean, it's there. And it could have a
19 good reason, you say no problem, I say if I look at
20 it, "Gee, that looks like what the casinos want,
21 they are going to get."

22 Secondly, the fact that it's already being
23 built. How can you build something and put that
24 much money in it, unless you are sure that when the
25 vote is taken it's going to be okay. Now, maybe

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1 that can all run side-by-side, but if the public is
2 looking -- we saw it in Illinois when they tried to
3 build the Rosemont Casino. The mob had gotten
4 themselves into the ownership, they started to
5 build the parking garage, they walked in and said,
6 "We spent 40 million dollars, you are going to tell
7 us we can't get this." The regulatory body really
8 took a lot of pressure on that because, in a sense,
9 the legislature passed it and so the regulatory
10 body sort of sent a message back to Springfield,
11 "We are not going to license this group, they are
12 not suitable." And it became a tremendous -- I
13 don't know if you followed it, but more lawyers
14 have been employed from that case than probably --
15 I mean, it was an economic surge of money in the
16 legal profession.

17 So I guess I will wrap up. The bottom line is
18 that if the rule change is approved, if they can
19 double the amount of the machines, it is an
20 expansion of gambling. And it can be
21 technically -- you can say, "We don't have the
22 number" -- it's an unintended consequence of
23 letting this happen. But the bottom line is you
24 will have twice as many addictive delivery
25 machines, you will have increased the number of

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1 pathological gamblers, and all of that will be done
2 without any vote in the legislature.

3 I mean, it appears that it will be the
4 decision. So what I want to do is get on the
5 public record and say when you sit down, weigh
6 those things. Understand how it is possible for
7 the public to perceive it as being a massive
8 expansion of gambling with very little, if any,
9 which is us coming down and finding it here. There
10 is not going to be a debate or discussion where it
11 will double the size. I don't think they will have
12 public hearings and the public won't have a chance
13 to say whether we want more.

14 So I salute you for the job you do. Keep your
15 independence. Professional staff, stay
16 professional. I know you don't get paid as much as
17 the people that are in this business, but we the
18 public really rely on you being regulators and
19 professionals that regulate in a manner that we can
20 then have confidence and this is aboveboard.

21 If you ever have any questions of me, I will
22 always be available and I'm privileged to have
23 worked with the fine people here and address you
24 here today. Thank you.

25 COMMISSIONER MURPHY: Thank you, Reverend Gray.

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1 Executive Director Yelton, do we have a
2 scheduled meeting?

3 EXECUTIVE DIRECTOR YELTON: Yes, our next
4 scheduled meeting of the Indiana Gaming Commission
5 is for June 21st at a location that has yet to be
6 decided.

7 COMMISSIONER MURPHY: Thank you.

8 There is no more business to come before the
9 Commission. I will entertain a motion to adjourn.

10 COMMISSIONER MURPHY: I will so move.

11 COMMISSIONER SWIHART: Second.

12 COMMISSIONER MURPHY: Moved and seconded.

13 All in favor?

14 BOARD: I.

15 COMMISSIONER MURPHY: Opposed?

16 We stand adjourned.
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1 STATE OF INDIANA)
2) SS:
3 COUNTY OF MARION)
4
5

6 I, Robin L. Helton, a Notary Public in and for
7 said county and state, do hereby certify that the
8 Gaming Commission Business Meeting, March 8, 2007,
9 at 1:00 p.m., was taken down in stenograph notes
10 and afterwards reduced to typewriting under my
11 direction, and that the typewritten transcript is a
12 true record of the proceedings held.

13 IN WITNESS WHEREFORE, I have hereunto set my
14 hand and affixed my notarial seal this 25th day of
15 March, 2007.
16
17
18

19 Robin L. Helton, Notary Public,
20 Residing in Marion County, Indiana
21
22

23 My Commission Expires:
24 June 6, 2009
25